

Application No. 10/735,607
Amendment dated November 7, 2006
Reply to Office Action dated August 9, 2006

Docket No.: 60427 (72021)

REMARKS

With this amendment, claims 41, 46, 48-67 and 69-71 have been amended. Claims 41, 46, 48-67, 69-72 and 88-94 are currently pending in the instant application. Claims 88-94 stand withdrawn from consideration.

Support for the amendment to the claims can be found throughout the specification (including the claims) as originally filed. No new matter has been added.

The amendment of the claims is without prejudice or disclaimer of the subject matter thereof and was done solely to expedite prosecution of the present application. Applicants reserve the right to pursue the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Applicants note with appreciation the Examiner's modification of the scope of the subject matter under examination.

Rejection under 35 U.S.C. §112, second paragraph

Claims 41, 46, 48-67 and 69-72 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. This rejection is traversed.

Without agreeing with the Examiner's position, the claims have been amended to remove the language ("pharmaceutically acceptable form thereof") to which the Examiner objected, and replace it with "pharmaceutically acceptable salt or hydrate thereof". Applicants respectfully urge that the language of the amended claims is clear and is not indefinite. Reconsideration and withdrawal of the rejection is proper and such action is requested.

Rejections under 35 U.S.C. §112, first paragraph

Claims 41, 46, 48-67 and 69-72 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. This rejection is traversed.

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Without agreeing with the Examiner's position, the claims have been amended to remove the language ("pharmaceutically acceptable form thereof") to which the Examiner objected, and replace it with "pharmaceutically acceptable salt or hydrate thereof". Applicants respectfully urge that the language of the amended claims finds ample written description in the specification (including the claims) as originally filed, and therefore satisfies the requirements of 35 U.S.C. §112, first paragraph. Reconsideration and withdrawal of the rejection is proper and such action is requested.

Claims 41, 46, 48, 54-64, 66, 67 and 69-72 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking enablement. This rejection is traversed.

The Examiner agrees that the specification provides enablement for compounds of the recited formula in which Ar₁ or Ar₂ are phenyl or pyridyl. Without agreeing with the Examiner's position, Applicants note that claims 41 and 48 have been amended to recite that Ar₁ or Ar₂ are each phenyl or pyridyl. Claims 54, 66, and 67 have also been amended to ensure consistency with claim 41, from which each depends (directly or indirectly). Applicants respectfully contend that the claims, as amended, are well supported by the present specification and do not lack enablement. Thus, reconsideration and withdrawal of the rejection is appropriate, and the same is requested.

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CONCLUSION

For at least the reasons discussed above, this case is believed to be in condition for allowance. Early and favorable action is requested.

Applicants request any extension of time necessary. Although it is not believed that any fees are needed to consider this submission, the Examiner is hereby authorized to charge our deposit account no. 04-1105 should any fee be deemed necessary.

Should the Examiner consider that obstacles to allowance exist, the Examiner is invited to contact the undersigned.

Dated: November 7, 2006

Respectfully submitted,

By 

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